Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

_____ TERM

NO. 72-866

DR. JOHN F. COOPER, PETITIONER,

VS:

THE FLORIDA STATE BOARD OF DENTISTRY,

RESPONDENT

PETITION FOR A WRIT OF CERTIORARI
TO THE DISTRICT COURT OF APPEAL
OF FLORIDA, THIRD DISTRICT

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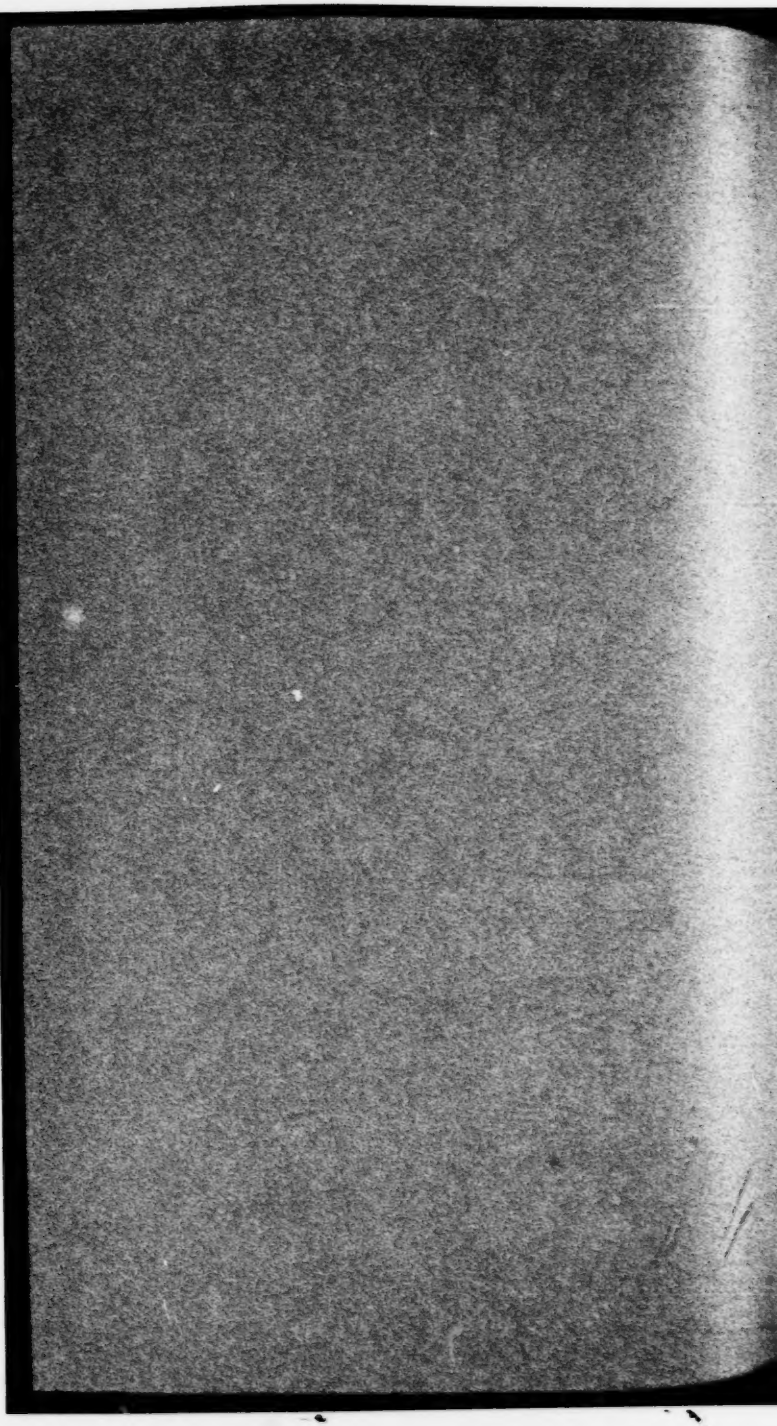

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NO. _____

_____TERM, 1972

IN THE

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DR. JOHN F. COOPER, PETITIONER,

vs:

THE FLORIDA STATE BOARD OF DENTISTRY,

RESPONDENT

PETITION FOR WRIT OF CERTIORARI
TO THE DISTRICT COURT OF APPEAL
OF FLORIDA, THIRD DISTRICT

TO THE HONORABLE SUPREME COURT OF THE UNITED STATES:

Comes now Dr. John F. Cooper, petitioner in the above-styled cause, and files this, his petition to the District Court of Appeal of Florida, Third District, and in support thereof respectfully submits the following:

OFFICIAL REPORT

1. The denial by the District Court of Appeal of Florida, Third District of the petition for a writ of certiorari to the Florida State Board of Dentistry on July 5, 1972, and the rehearing denial on August 1, 1972, are noted in 265 Southern Reporter Second 432 under "Memorandum Decisions." This is the highest court of the State of Florida in which a decision could be had in this matter.

Copies of all administrative orders and court orders involved in this case were filed in the appendix to the companion case to this case under Cooper v. Florida State Board of Dentistry docketed in this Court on November 25, 1972, as No. 72-774.

GROUNDS

2. (a) The license to practice dentistry of petitioner, as well as any renewals thereof, have been revoked permanently by the Florida State Board of Dentistry under authority of the Florida Statutes

Annotated, 1971, Chapter 466, section 466.24 while this statutory section is vague, indefinite and standardless so as to fail to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by said statute, and requires men necessarily to guess as to its meaning and application, thereby illegally posing a clear, imminent, irreparable and great damage to Dr. Cooper in the loss of his means to a livelihood. For this denial of due process the said statutory section is repugnant to the Constitution of the United States.

In this certain statutory section, the psychiatric disorder is ranked along with other disease deemed dangerous to the public health without delineation.

(b) This certain statutory section also punishes the dentist who becomes mentally ill, (afflicted with psychiatric disorder), or becomes a drug addict.

(c) This certain statutory section treats unequally any dentist who happens to become afflicted

with a psychiatric disorder among the ranks of all dentists similarly situated, while providing no suspension or revocation for the dentist who becomes afflicted with a physical disorder. This unequal protection of the said section is unconstitutional.

(d) The accusation and the order determining Dr. Cooper guilty of certain conduct both rely on an inability of petitioner to manage "his personal and business affairs." While the Florida State Board of Dentistry is carrying out a legitimate police power function under authority of section 466.24, the overbreadth of the section is unconstitutional when it invades petitioner's right to privacy.

(e) Petitioner was denied due process when he was required to go to the defense of his dental license without a meaningful opportunity to prepare a defense to the accusation.

(f) The hearing before the Florida State Board of Dentistry lacked the required appearance of justice when the attorney for the Board held the

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official inconsistent positions of prosecuting petitioner on the accusation and advising the Board of laymen on matters of law during the hearing of the matter.

(g) The Florida State Board of Dentistry failed to strictly construe this penal statute as is required where the entire accusation is drafted in the past tense while the proscribed conduct in the statutory section specifies "is".

(h) Both the accusation and the determination of guilt by the Board were non-specific, open-ended and without limitation where the charges were recited "...but not limited thereto."

(i) The date of the judgment sought to be reviewed is Tuesday, October 3, 1972, and the time of its entry is not noted in said court.

(j) No rehearing was sought in the Supreme Court of Florida, but on Monday, October 30, 1972, a stay of execution was granted allowing petitioner to and including December 4, 1972, to seek review in the Supreme Court of the United States and

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obtain any further stay.

(k) The jurisdiction of this Court to review this case by certiorari rests upon United States Code Annotated, Title 28, section 1257 (3).

FEDERAL QUESTIONS

3. (a) FIRST FEDERAL QUESTION:

Is a state statute, which is penal in nature dealing with the revocation of a dentist's license, repugnant to the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States if said statute:

(1) Is so vague, indefinite and standardless as to fail to give men of common intelligence fair notice of what it forbids?

(2) Further, causes men to necessarily guess at its meaning and differ as to its application?

(b) SECOND FEDERAL QUESTION:

Is a state statute which is used in performing a valid governmental function unconstitutional for being repugnant to the right to privacy

provision of the Fourth Amendment to the Constitution of the United States if said statute:

(1) By its overbreadth allows an examination of all of the banking records and business practices of a dentist without his consent?

(2) By its overbreadth allows an examination on which to base the conclusion a dentist lacks the ability to manage "his personal and business affairs"?

(3) By permitting such invasions allows an unreaonable search within the meaning of said Amendment?

(c) THIRD FEDERAL QUESTION: Is a state statute repugnant to the Constitution of the United States for denying a right under the Equal Protection Clause of the Fourteenth Amendment if it provides:

(1) A dentist who becomes afflicted with a mental illness (afflicted with a psychiatric disorder) among other dentists similarly situated may have his dental license suspended or revoked while a dentist with a physical disorder is not

penalized?

(2) A dentist who becomes a drug addict among other dentists similarly situated may also be so punished.

(d) FOURTH FEDERAL QUESTION: Is a denial of the right to the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States for an administrative board hearing an accusation of misconduct charged against a dentist to:

(1) Require the accused dentist to defend his professional license within seventeen days after said dentist was able to retain counsel, where the attempt to retain counsel was limited due to financial reasons?

(2) Require the accused to defend within seventeen days after retaining counsel when the attorney retained asked for a bill of particulars and a continuance, under the circumstances, and both requests were denied?

(3) Allow an attorney only seventeen days to prepare a meaningful defense in such a

case where he needs to find applicable law, locate and interview available witnesses during what was mostly a holiday season, take required depositions, cause the necessary subpoenas to be issued in Jacksonville, Florida, and returned to Miami, Florida, where service on said witnesses was required in Miami, Dade County, Florida, and Sanford, Seminole County, Florida?

(4) Provide the accused dentist with an accusation that recited certain charges of alleged misconduct but specifically state at several places in the accusation "...but not limited thereto"?

(5) Provide the accused dentist with an accusation drafted only in the past tense based upon a statutory provision proscribing conduct of which the accused "is" guilty?

(6) Provide the accused dentist with a determination of fact containing a conclusion of guilt based upon certain allegations stated but followed by "...but not limited thereto"?

(7) Allow the attorney who acted as the prosecutor of the accused dentist in the hearing of the matter on behalf of the board also to advise the board, all of whom were laymen, on questions of law that arose during the hearing?

(8) Revoke the license of a dentist permanently for conduct done before the dentist had been hospitalized and had received three months of psychiatric rehabilitative treatment, and had been returned to the practice of dentistry by the attending psychiatrist?

STATUTES AND PROVISIONS

4. "466.24 Suspension or revocation of license certificate for cause.--The board shall suspend or revoke the license of any dentist or dental hygienist when it is established to its satisfaction that he:

(1) Is a habitual user of intoxicants, or drugs or is afflicted with physical disability, senility, psychiatric disorders or other

disease deemed dangerous to the public health, thus rendering him unfit for the practice of dentistry or dental hygiene.

(2) Is grossly ignorant or incompetent.

(3) Has been guilty of:

(a) Misconduct either in his business or in his personal affairs which would bring discredit upon the dental profession;

(b) Fraud, deceit or misrepresentation in obtaining his license;

(c) Malpractice;

(d) Wilful negligence in the practice of dentistry or dental hygiene;

(e) Employing or permitting any unlicensed person or persons to perform any work in his office, which would constitute the practice of dentistry or dental hygiene, except a dental auxiliary pursuant to the provisions of this chapter;

(f) Publication or circulation

directly or indirectly of any fraudulent, false or misleading statements as to the skill or methods of practice of any person;

(g) Advertising in any manner his professional services in the practice of dentistry or the cost or fees therefor in this state in a manner not expressly authorized by this chapter; claiming or inferring of professional superiority over other practitioners;

(h) Employing or using a solicitor or other agent to obtain patronage;

(i) Giving a public demonstration of skill or methods;

(j) Practicing dentistry along the streets or highways or any place other than the office where the licensee regularly practices dentistry except as provided by this chapter;

(k) The public exhibition or use of specimens of dental work, large display signs or lighted signs, electric or neon or any

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other media of calling the attention of the public to any person engaged in the practice of dentistry or dental hygiene;

(l) Failure to provide and maintain reasonably sanitary facilities and conditions;

(m) Failure to provide adequate radiation safeguards; or,

(n) Violating any other provision of this chapter regulating the practice of dentistry or dental hygiene."

This statutory section is to be found in the Official Florida Statutes, 1972 Supplement, at pages 456 and 457.

'MEDICAL PRACTICE ACT"

"458.1201 Denial, suspension, revocation of license; disciplinary powers.--

"(1) The board shall have authority to deny an application for a license or to discipline a physician licensed under this chapter or any

antecedent law who, after hearing has been adjudged unqualified or guilty of any of the following:

"(n) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to such examination when directed shall constitute an admission of the allegations against him unless the failure was due to circumstances beyond his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with

reasonable skill and safety to patients."

CONSTITUTION OF THE UNITED STATES

OF AMERICA

AMENDMENT 4

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

AMENDMENT 5

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

AMENDMENT 14

"SECTION 1. All persons born or naturalized in the United States, and subject ot the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the

United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

FACTS

5. Petitioner's license to practice dentistry, as well as any renewals thereof, have been revoked permanently by an order of the Florida State Board of Dentistry under authority of the Florida Statutes Annotated, 1971, Chapter 466, section 466.24, while this statutory section is so vague, indefinite and standardless as to fail to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by this penal statute requiring men necessarily to guess at its meaning and application, thereby illegally posing a clear, imminent, irreparable and great loss to Dr. Cooper in the loss of his means to a livelihood.

Petitioner Cooper entered the Veteran's Administration Hospital in Miami, Florida, on July 14, 1971, and was discharged on October 4, 1971.

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His treating psychiatrist, Dr. James Goodman, kept Dr. Cooper in the classical psychiatric ward until August 29, 1971, when Dr. Cooper was allowed to enter the Human Relations Laboratory for exchanges with other patients and further treatment there until he was discharged as able to return to work. When queried on the hearing of this matter as to the cause of his hospitalization being drug addiction or alcoholism, or both, Dr. Cooper stated the cause was more complex than that. His uncontradicted testimony was that he was emotionally ill. On his release petitioner returned to work as a dentist with the Seminole County Health Department at Sanford, Florida, where he yet works.

Charges were filed against petitioner with the Secretary-treasurer of the Florida State Board of Dentistry on December 10, 1971.

All of the charges made were based on conduct prior to the hospitalization of petitioner. Charges began with conduct on August 22, 1963, and ended with conduct shortly before petitioner's

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hospitalization on July 14, 1971. No charges of misconduct were made for any conduct of petitioner after his release from the psychiatric ward of the hospital.

The accusation made against Dr. Cooper was open-ended.

"The above described acts, all of which violate Chapter 466 of the Florida Statutes are in violation of Section 466.24 (1), (3) (a) (c) (d) (1) (n), of the Florida Statutes, but not limited thereto."

The accusation made against Dr. Cooper included charges of misuse of his "personal and business affairs" and abuse of checking accounts and writing of "bad checks" on old checking accounts.

These charges were served upon petitioner by certified mail on the 13th day of December, 1971. He then began his search for an attorney to aid him in his defense, but, due to his limited financial resources, he was unable to retain counsel until December 28, 1971, and the "Notice of Hearing" set

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the date of hearing on January 14, 1972.

This allowed petitioner's counsel a period of only seventeen days in which to investigate the charges, make discovery of the evidence against petitioner held by the Florida State Board of Dentistry, find applicable law, locate available witnesses, take required depositions, cause the necessary subpoenas to be issued in Jacksonville, Florida, and to be returned to Miami, Florida, for service in Miami, Florida, and in Sanford, Seminole County, Florida. This seventeen day period was during a holiday season when many people were unavailable to counsel for petitioner due to being out of town or busy with seasonal commitments.

Petitioner's motions for a continuance and bill of particulars were denied by the respondent.

A hearing was held. On the hearing of this matter, Mr. Randle, the attorney who had advised the Florida State Board of Dentistry they had good legal cause to prosecute Dr. Cooper, advised the

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Board on matters of law. Mr. Randle also presented the case against Dr. Cooper as the attorney for the Board.

The Board, in addition to ruling on legal questions as they arose throughout the hearing, made the finding of guilty.

The determination of fact finding Dr. Cooper guilty was written, however, in the same open-ended fashion as the accusation.

"4. The above described acts, all of which violate Chapter 466 of the Florida Statutes, are in violation of Section 466.24 (1), (3), (a) (c) (d) (1) (n), of the Florida Statutes, but not limited thereto."

Also the Board concluded petitioner was unable to manage his "personal and business affairs".

FEDERAL QUESTIONS RAISED

6. The stay granted by the Supreme Court of Florida on Monday, October 30, 1972, halted all

proceedings in said court as well as proceedings in the District Court of Appeal, Third District, and the Circuit Court for the Eleventh Judicial Circuit of Florida in and for Dade County to and including December 4, 1972, to allow petitioner to seek review in the Supreme Court of the United States and obtain any further stay.

The first federal question raised dealing with the indefinite, vague and standardless quality of Section 466.24 of the Florida Statutes was raised before the Florida State Board of Dentistry in a Motion to Dismiss where petitioner wrote:

> 'Comes now Dr. John F. Cooper in person and by his attorney, Glyn Dial Ellis, and does respectfully move the Florida Board of Dentistry to dismiss the charges against him in the 'Accusation' sworn to December 9, 1971, on the ground that the 'Accusation' is based upon Chapter 466 of the Florida Statutes which is unconstitutional due to being vague, ob-

scure, indefinite, ambiguous and written without prescribed standards which would determine the necessary degree of wrongdoing in order to sustain a finding of conduct sufficiently improper or improperly motivated so as to entitle the Board to find against Dr. Cooper and to penalize him under the Florida Statute authorizing a penalty.

"Additionally, the 'Accusation' is not drafted in the present tense so as to meet the requirement that Dr. Cooper 'is' a user as described and there are no facts stated in the 'Accusation' that sustain a finding that this is true. In other words, the 'Accusation' recites the law in this particular section but states no facts to sustain such conduct on the part of Dr. Cooper presently.

"Additionally, the Florida

Statutes, Section 466, is unconstitutional on the ground that it does not inform an ordinary man of the kind and degree of conduct that would be sufficient to sustain the finding for a penalty against such ordinary man.

"Additionally, Chapter 466 of the Florida Statutes contains no definitions of the relationships and required conditions in order to inform Dr. Cooper, or any ordinary man, of such conditions as would sustain the finding of a penalty against him under this certain chapter.

"Done at Miami, Florida, this December 31, 1971."

BOARD'S RULING ON MOTION TO DISMISS

"COMES NOW the Florida State Board of Dentistry, by and through its undersigned attorney, and for answer to

the Accused's Motion to Dismiss states said Motion is denied.

"DATED this 10th day of January, 1972.

RICHARD L. RANDLE, For and at the direction of the Florida State Board of Dentistry"

Prior to the hearing of this matter by the Florida State Board of Dentistry, petitioner sought an injunction in the Dade County Circuit Court as well as a Declaratory Judgment of his rights in the following:

"APPLICATION FOR DECLARATORY JUDGMENT

TO THE HONORABLE JUDGE OF THE DADE COUNTY CIRCUIT COURT:

"Plaintiff, Dr. John F. Cooper, presents his Application for a Declaratory Judgment seeking declaratory and injunctive relief involving the following agency and state officials:

"The Florida State Board of Dentistry; John A. Stewart, D.D.S., Secretary-Treasurer of the Florida State Board of Dentistry; Robert M. Denton, D.D.S., Executive Director and Assistant Secretary-Treasurer of the Florida State Board of Dentistry; Robert Shevin, Attorney General of the State of Florida; and Louis H. Ritter, Secretary of the Department of Professional and Occupational Regulation.

"1. Plaintiff brings this action for relief under Chapter 86, Declaratory Judgments, Florida Statutes, 1969, as amended, whereunder the plaintiff prays the Court will render declaratory judgments and supplemental relief on the existence of any immunity, privilege, right or status now existing belonging to the the plaintiff as well as a declaration of equitable and legal relations of the

parties to this controversy as they are affected by the following:

"3 (C) Plaintiff further prays the Court determine the construction and/or constitutionality in said Chapter 466 of the two Sections, 466.24 'Suspension or Revocation of License Certificate for Cause' and Section 466.25 'Filing of Accusations Against Dentists, Dental Hygienists or Dental Laboratories, Notice, Hearing, Review'.

'Plaintiff alleges the statutory sections 466.24 and 466.25 are unconstitutional and therefore void due to being vague, ambiguous and indefinite with a failure to promulgate standards of misconduct and/or conduct designed to bring discredit to the practice of dentistry and by reason of their failure to assure plaintiff equal

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protection of the law and due process of law. By these sections plaintiff is denied knowing with what he is charged since a man of common intelligence must necessarily guess at their meaning and differ as to their application.

"There are no definitions extant in the Florida Statutes, or elsewhere, governing the terms used in said sections so that plaintiff is unable to determine whether the wrongdoing includes associations or beliefs or other conduct in his 'personal affairs'."

"4 (D) By the terms of the 'Accusation' plaintiff is accused of having violated section 466.24 (3) (n), Florida Statutes, 'but not limited thereto'. A statement of such violations under various sections of 466.24 'but not limited thereto' are found on pages 2, 3, 4, 5, 6, and 7 of said 'Accusation'.

"The 'Accusation' specifies violation of any other provision of Chapter 466 relating to the practice of dentistry or dental hygiene in its charge of having violated section 466.24 (3) (n).

"The 'Accusation' states Dr. Cooper 'was an alcoholic', while the law on revocation uses the verb, 'is a (sic) habitual user of intoxicants...'"

ORDER

"THIS CAUSE came on to be heard before me on Plaintiff's Application for injunction and Defendants' Motion to Dismiss, after notice and the Court having examined the pleadings and memorandum filed in said cause and having heard argument of counsel, it is thereupon,

ORDERED AND ADJUDGED:

1. That said Application be and the same is hereby denied.

2. That this cause be and the same is

hereby dismissed with prejudice and at Plaintiff's cost.

DONE and ORDERED in Chambers, at Miami, Dade County, Florida, this 14th day of January, 1972."

Because of the ruling laid down in the Kionka case wherein the trial court in its final judgment or decree is required to directly pass upon the validity of a statute, or undertake to set forth a construction of the constitutional provision, no appeal was allowed to the Supreme Court of Florida from this denial. See In re Estate of Anna Z. Kionka, 121 Southern Series 2d 644. See especially page 646.

The matter came on to be heard by the Board whose order is found in the appendix of this matter beginning at page one.

Petitioner next sought a writ of certiorari in the District Court of Appeal of Florida, Third District, where the first federal question was raised in the petition and brief as follows:

"A. The statutory section which was the basis for the revocation of the license of Dr. Cooper is unconstitutional in those specific sections which were the bases of the charges against him as well as those statutory sections being unconstitutional which were the bases of the revocation of his license.

"The acts described in the accusation allegedly violate Chapter 466 of the Florida Statutes and are presented by the Board as being in violation of 'Section 466.24 (1), (3) (a) (c) (d) (1) (n), Florida Statutes but not limited thereto'.

"The Order revoking the license of Dr. Cooper found him guilty '...of violating Chapter 466 of the Florida Statutes, and in particular Section 466.24 (1), (3) (a) (c) (d) (1) (n),

of the Florida Statutes, but not limited thereto...'.

"These certain statutory sections are vague and standardless leaving the dental profession uncertain as to the conduct they prohibit and leaves administrative boards without any legally fixed standards to guide them.

"B. Additionally, that Section 466.24 (3) (a) is violative of petitioner's constitutional right to privacy.

"C. Petitioner was denied due process of law in the following instances:

(1) When he was denied a continuance which would have allowed counsel for petitioner an opportunity to prepare for the defense of this case in a reasonable time. While the

State had months to prepare its case, petitioner had at most less than twenty (20) days and, under the facts of this case, to have denied petitioner a continuance was error. Counsel for petitioner needed time for discovery, investigation, study of the applicable law and preparation of the defense. A meaningful opportunity to be heard is requisite to fairness.

"(2) The hearing in this matter did not have the appearance of justice where the attorney who acted as prosecutor was also advisor to the Board performing a quasi-judicial function in determining guilt and ruling in matters of law.

"(3) The failure of the Board to provide Dr. Cooper with a specific and definite 'Accusation', which they refused to correct when they denied

petitioner's Motion for a Bill of Particulars, was error. The granting of a list of witnesses did not correct this error.

"(4) The drafting of the 'Accusation", where it was based upon Section 466.24 (1), was error and constituted no charge against Dr. Cooper since it was drafted in the past tense and did not accuse the petitioner of being guilty of such conduct as is proscribed at the time of the 'Accusation' or as the Section specifies 'is'."

"(5) The 'Accusation' did not inform the petitioner of the charges against him since the charges made recite certain Sections of Chapter 466 but specifically state 'but not limited thereto'. This information that the 'Accusation" against Dr. Cooper is not limited to the certain sections of the

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statutory charge made is repeated at least once on five of the seven pages of the 'Accusation". Under this information, petitioner had no way of knowing what he had specifically to meet and disprove.

"(6) The Order of revocation of the license of Dr. Cooper was not based upon the charges made against him nor upon the evidence submitted but as stated in Paragraph 4 of said Order, '...John F. Cooper guilty of violating Chapter 466 of the Florida Statutes, and in particular Section 466.24 (1), (3) (a) (C) (d) (1) (n), of the Florida Statutes, but not limited thereto...'."

(Underlining is mine).

"(7) The conduct of the Board in revoking the license of Dr. Cooper was arbitrary and unreasonable

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under the facts of this case. Such an Order was an abuse of their discretion in view of the rehabilitative psychiatric treatment received by Dr. Cooper before any of the charges were filed against him."

In the argument of the brief filed in the District Court of Appeal beginning at page seven (7) these federal questions were pursued:

"It is difficult to understand what it is the Florida State Legislature forbids by this Chapter 466, Section 24. The law is so drafted as to mean different things to a man of common intelligence so that he must necessarily guess at the meaning of the Section; and, of course, the Florida State Board of Dentistry would be allowed to differ as to the application of the law because of the nature of the language. For example:

"'466.24 (1) Is a (sic)

habitual user of intoxicants or drugs....'.

'What is 'a (sic) habitual user of intoxicants'? Would it be fair to say that a man who takes a cocktail every evening before dinner is an habitual user of intoxicants? Is this disabling?

'What is an habitual user of drugs? What are drugs? Does the Florida State Legislature mean all drugs which one might use habitually or are there certain drugs with a deleterious effect which they had specifically in mind?

'466.24 (1) ...is afflicted with physical disability, senility, psychiatric disorders...'

"If a dentist were to be afflicted with a severe case of arthritis, would that be a sufficient physical disability to allow suspension or revocation of his license?

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'Webster's Third New International Dictionary defines 'senility' as 'the quality or state of being senile'. "Senile" is defined therein as 'of, relating to or characteristic of old age'.

"'Psychiatric disorders' would include both neuroses and psychoses. Even psychiatrists would disagree as to what psychiatric disorders are, and the extent of disability flowing from each psychiatric disorder would also be the bases of professional differences of opinion.

> "'466.24 (1) ...or other disease deemed dangerous to the public health, ...'

"Is there no disease deemed dangerous to the public health that is not communicable at some stage? Is it the intention of the Legislature to suspend or revoke the licenses of dentists

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who have diseases that are dangerous to the public health even when such diseases are not communicable or are not in a communicable stage?

> "'466.24 (2) Is grossly ignorant or incompetent;'

"How could a man be deemed grossly ignorant who had received a license to practice dentistry in the State of Florida?

"Is a dentist who achieves several poor results on patients over several years of time incompetent? What if he achieves several poor results in a short period of time? Is that enough to make him incompetent?

> "'466.24 (3) Has been guilty of: (a) Misconduct either in his business or in his personal affairs which would bring discredit upon the dental profession.'

"If a dentist belonged to clubs which were Communistic or anti-religious, would that be misconduct in his personal

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affairs which would bring discredit upon the dental profession?

'What if a dentist actively participated in either marches for peace or civil rights? Would this be such discredit?

'What if a dentist were to file a bankruptcy petition in his business, would this be misconduct in his business which would bring discredit upon the dental profession? What if he had a reputation for not paying his bills until 120 days after they were due, thus achieving a poor credit rating? Would that be such a discredit to his profession?

"'466.24 (3) (c) Malpractice;'

'What is meant by malpractice for the purposes of this section?

> "'466.24 (3) (d) Willful negligence in the practice of dentistry or dental hygiene;'

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"Is a man who is mentally ill and willfully negligent in the practice of dentistry to have his license suspended or revoked, the same as a man who is not mentally ill and acts willfully negligently?

"'466.24 (3) (l) Failure to provide and maintain reasonably sanitary facilities and conditions;'

'What is 'reasonable'? Whose standard shall we apply?

'While Subsection (m) requires adequate radiation safeguards, it does not specify the purpose for such radiation safeguards in order that standards might be known, as they are generally known in the profession, or by standards promulgated in this Chapter.

"'466.24 (3) (n) Violating any other provision of this chapter regulating the practice of dentistry or dental hygiene.'

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"This Subsection could either be a repetition of other provisions of Section 24 which we have already questioned or it could be any other provision of this Chapter applicable or inapplicable to an individual dentist."

The second federal question raised below on the overbreadth of the statute allowing an invasion of petitioner's right to privacy at page 13 in the brief submitted to the District Court of Appeal:

'Misconduct in the personal affairs of an individual without a standard being set by the State Legislature is open to such abuse in sensitive areas of basic freedoms guaranteed an individual by the Bill of Rights that such statute must be unconstitutional."

The third federal question was raised in the Dade County Circuit Court and the District Court

of Appeal. This question rested on the right insured petitioner in the Equal Protection Clause of the Fourteenth Amendment.

In the brief filed with the District Court of Appeal beginning at page 13 the following argument was made:

> "In the area of the psychiatric disorders this Section 24 does not fairly treat any dentist who may become ill with a psychiatric disorder as opposed to a physical disorder. This statute still treats the psychiatric disorder as though it were a human infirmity arrived at in some fashion different to that of a physical disorder. A reading of the Section reveals that no dentist who becomes physically ill is to be suspended whereas a dentist suffering a psychiatric disorder is to be suspended. Again, no provision is made for any condition, exception, or unusual circumstances.
>
> "The medical profession has met

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the same problem of the sick doctor by providing in Florida Statute 458.1201, Subsection (n) as follows:

'Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to such examination when directed shall constitute an admission of the allegations against him unless the failure was due to circumstances beyond his control, consequent upon which a default and final

order may be entered without the taking of testimony or presentation of evidence. A physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients.'"

Again in the third federal question dealing with the denial of due process, petitioner argued in the Third District Court of Appeal brief at 21:

"In the instant matter on the subject of the 'appearance of justice' I respectfully submit to the Court that it was error for Mr. Randle to be the prosecuting attorney, advisor to the Board on matters of law during the trial of the matter, as well as being the attorney for the Board who advised them when they had a sufficient amount of evidence to proceed against Dr. Cooper. Again, the 'appearance of justice' was lost when the Board was the client of Mr. Randle and at the same time sat as the judge and jury ruling on matters of law and fact in the hearing of this case. No criticism is intended of the Board or Mr. Randle, but it is a difficult thing to explain to an individual who has been accused of misconduct by the Florida State Board of Dentistry how the attorney who is prosecuting him can advise the

Board that is trying him on matters of law and evidence in the trial."

"Had petitioner been granted a meaningful opportunity to be heard, it might have been that the license of Dr. Cooper would not have been revoked. A man sued for one thousand dollars would have had a greater opportunity to defend his one thousand dollars than Dr. Cooper had to defend his license, even if you assume that Dr. Cooper had thirty days in which to prepare a defense. No fair minded court would require a man to go to trial if he were sued for one thousand dollars without an opportunity to take necessary depositions and investigate the suit filed against him."

The District Court of Appeal denied the petition for writ of certiorari as well as the petition for a rehearing without initially passing

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upon the validity of the state statute in question so petitioner was unable to appeal to the Supreme Court of Florida. Or, restated, he did attempt an appeal to the Supreme Court of Florida and it was dismissed. See Appendix, pages 24,25.

Petitioner also attempted to perfect an appeal by writ of certiorari on the ground that the decision in the instant case was in conflict with State v. Pattishall, 126 Southern 147, 99 Florida 296 (1930), which requires a statute which is penal in nature to be strictly construed and strictly followed. The Supreme Court of Florida denied the petition for certiorari.

ARGUMENT UNDER FIRST FEDERAL QUESTION

Does Dentist Cooper have the same right as a man accused of a crime to raise the objection of vague, indefinite and standardless where his accusation arose under a "penal" statute rather than a "criminal" statute?

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This objection was raised successfully in two "criminal" matters before this Court recently. See Rabe v. Washington, 405 United States 313 (1972); and, Papachristou v. City of Jacksonville, 405 United States 156 (1972).

Yes, this Court answered in Giaccio v. Pennsylvania, 382 United States 399 (1966) at page 402:

'Whatever label can be given the 1860 Act there is no doubt that it provides the State with a procedure for depriving an acquitted defendant of his liberty and property. Both liberty and property are specifically protected by the Fourteenth Amendment against any state deprivation which does not meet the standards of due process, and this protection is not to be avoided by the simple label a State chooses to fasten upon its conduct or its statute. So here this state Act whether labeled 'penal' or not must meet the challenge that it is unconstitutionally vague."

See also Cramp v. Board of Public

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Instruction, 368 United States 278 (1961); and Small Company v. American Sugar, 267 United States 233 (1925).

If one may challenge the statute on this vice, then does section 466.24 qualify as vague?

I submit this section has not the remotest suggestion of a standard, but only contains a listing of certain habits, practices, conditions, afflictions, "or other disease deemed dangerous to the public health", and ipso facto, "thus rendering him unfit for the practice of dentistry or dental hygiene."

ARGUMENT UNDER SECOND FEDERAL QUESTION

All of the banking records and checks of Dentist Cooper were searched for over a several-years-period without his consent!

From this illegal search grew that part of the accusation, "...and not being able to properly cover checks drawn on old checking accounts that had been closed and otherwise that the said Dr.

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John F. Cooper would write and cash 'bad checks' and otherwise was unable to properly perform the necessary and proper business functions of his office...".

The men hearing the evidence used it to conclude petitioner was guilty when they wrote: "...and due to the inability of the said Dr. John F. Cooper to manage his personal and business affairs, it was necessary for the said Dina Leopardi to take charge of his entire finances for his said dental offices and to open bank accounts for the said Dr. John F. Cooper's dental practice in her name..." See Appendix, page 5.

The settled rule of law is that "A governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms."

See Griswold v. State of Connecticut, 381 United States 479 (1965). See especially page

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485.

ARGUMENT UNDER THIRD FEDERAL QUESTION

Part (1)

Petitioner was hospitalized for three months for being mentally ill. He is now suffering the possible loss of his dental license permanently because of conduct while mentally ill.

What if petitioner had only become physically ill? This section 466.24 provides no punishment for a dentist who becomes physically ill.

How is one illness cause for different treatment to another illness? No one would suggest mental illness is anything but illness.

Under Smith v. Texas, 233 United States 630 (1913) a statute may not lay down a test whereby competent men may be excluded from earning a livelihood while other competent man may not.

Is it equal protection under the law to punish the man who becomes mentally ill while not

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punishing the one who becomes physically ill?

The medical doctors of Florida are protected from this punishment of the ill by statutory provision section 458.1201 where a mental or physical examination is called for. Why are dentists not given equal protection?

ARGUMENT UNDER THIRD FEDERAL QUESTION

Part (2)

On the subject of drug addiction, this Court wrote in Robinson v. California, 370 United States 660 (1962) at page 676:

"We should show the same discernment respecting drug addiction. The addict is a sick person. He may, of course, be confined for treatment or for the protection of society. Cruel and unusual punishment results not from confinement, but from convicting the addict of a crime. The purpose of § 11721 is not to cure, but to penalize."

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The purpose of section 466.24 is to suspend or revoke the license of a dentist for drug addiction. Is this to cure or to punish?

In Furman v. Georgia, 408 United States 238 (1972) this Court stated:

"A State may not punish a person for being 'mentally ill', or a leper, or ...afflicted with a venereal disease."

Again, does section 466.24 have as its purpose to protect the general welfare or to punish the dentist who offends thereunder?

A recent report of the Board of Trustees of the American Medical Association 'Report T (C-72)" dealing with the title "Physicans with Psychiatric Disorders, Including Alcoholism and Drug Dependence" was presented by Dr. John R. Kernodle, M.D., Chairman.

This report demonstrates the extent and result of mental illness in doctors nationally:

"Apart from the cases of alcohol

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and drug dependence which come before disciplinary bodies with relatively high frequency, there are, as in the general population, other less visible diagnostic entities of mental disorders occurring with, perhaps, greater frequency among physicians. Specific studies of the epidemiology of mental disorder in physicians are few, but Duffy, in a 1967 survey of physicians treated at the Mayo Clinic, found the following diagnoses in order of prevalence: affective psychosis, psychoneurosis, schizophrenia, personality disorder, and organic brain syndrome. (References omitted)

"The psychotic reactions, without question, impair the ill physician's judgment and ability to practice, and a psychoneurosis or a personality disorder of sufficient degree can constitute a similar risk to the safety of the patient.

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"Suicide is generally accepted to be one of the major behavioral consequences of mental illness. Demographic data were compiled on 249 physicians listed as suicides in the JAMA obituary columns from May 1965 to November 1967. Suicides exceeded the combined deaths from automobile accidents, plane crashes, drowning and homicide. In addition, 56 deaths were reported as possible suicides. The total of all these violent deaths is 534, or over 5% of all the physicians' deaths during that period.

"The mean suicidal age was 49, at or near the usual productive peak for a physician. Abuse of alcohol or drugs was an important factor in two-fifths of the cases and depressive illness was very common. Medical specialty was a significant variable: Suicide ranged from a low of .01% of pediatricians to a high

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of .06% of psychiatrists. (Reference omitted)

"The approximately 100 physicians who commit suicide annually equal the size of the average medical school graduating class."

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Parts (1), (2) and (3)

A meaningful opportunity to be heard means more than to be able to subpoena a group of past patients to speak in your behalf. It must include the right of counsel to have an opportunity to prepare for the trial of a serious matter before going to a hearing.

The benefit is not in having counsel, but in having counsel who has had time to prepare.

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Part (4)

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If a man receives an accusation containing allegations of violations under certain statutory sections "...but not limited thereto", what is he accused of having done?

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Part (5)

If a legislature wisely sets a present tense condition of the verb "is" in a penal statutory section, may an administrative board remove that limitation by applying the verb as though it had been written "was"?

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Part (6)

If a man is found guilty of violating certain sections of a statute "...but not limited thereto", what is he guilty of having done?

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Part (7)

Mr. Randle was charged with prosecuting Dr. Cooper and advising the body wich determined

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guilt on questions of law during the trial. This is a public official occupying two practically and seriously inconsistent position.

See Tumey v. Ohio, 273 United States 510 (1927). Especially page 534.

To perform its high function in the best way, justice must satisfy the appearance of justice.

PRAYER

Wherefore, petitioner prays that the judgment, decision and revocation of the license of Dr. John F. Cooper to practice dentistry in Florida, as well as any renewals thereof, by the Florida State Board of Dentistry on January 15, 1972, and affirmed by the District Court of Appeal, Third District, in Case No. 72-294, with petition for a writ of certiorari denied by the Florida Supreme Court in Case No. 42-694 and the appeal to the Florida Supreme Court dismissed in Case No. 46-670 be set aside, vacated, and held for naught; that the petitioner's writ of certiorari

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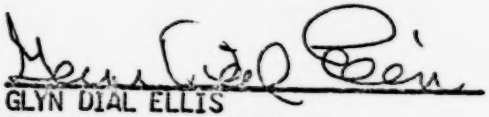
be granted and the judgment, decision and revocation of said license together with the orders of denial and dismissal affirming said judgment, decision and revocation of said license together with the orders of denial and dismissal affirming said judgment, decision and revocation be reversed and that this Honorable Court issue said writ to the District Court of Appeal of Florida, Third District, as prayed for herein by petitioner.

Respectfully submitted,



GLYN DIAL ELLIS
Attorney for Petitioner
1451 North Bayshore Drive
Suite 518
Miami, Florida 33132

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CERTIFICATE OF SERVICE

I, Glyn Dial Ellis, the undersigned attorney for petitioner in the above-styled cause, do certify that on this 12th day of December, 1972, I mailed three copies of this petition for a writ of certiorari and appendix to Richard L. Randle, Esquire, attorney for the Florida State Board of Dentistry, to his proper address with sufficient postage attached thereto.

GLYN DIAL ELLIS

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IN THE

SUPREME COURT OF THE UNITED STATES

DEC 13 1972

MICHAEL RODAK JR. CLERK

_____ TERM

NO. _____

DR. JOHN F. COOPER, PETITIONER,

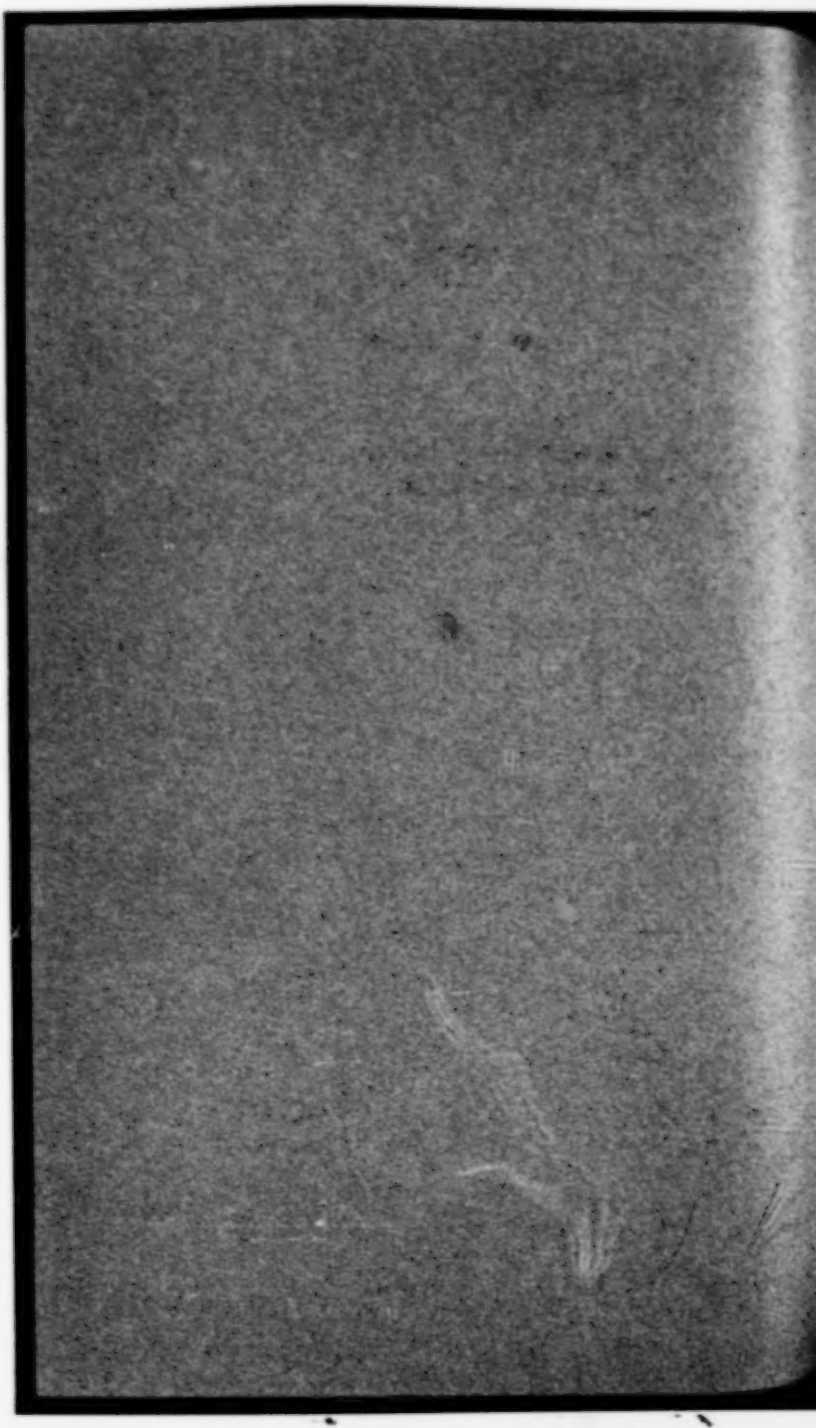
vs:

THE FLORIDA STATE BOARD OF DENTISTRY,

RESPONDENT

APPENDIX TO
PETITION FOR A WRIT OF CERTIORARI
TO THE DISTRICT COURT OF APPEAL
OF FLORIDA, THIRD DISTRICT

GLYN DIAL ELLIS
Attorney for Petitioner
Suite 513
1451 North Bayshore Drive
Miami, Florida 33132



APPENDIX

SUBJECT INDEX

	Page
Accusation by the Florida State Board of Dentistry against Dr. John F. Cooper	1

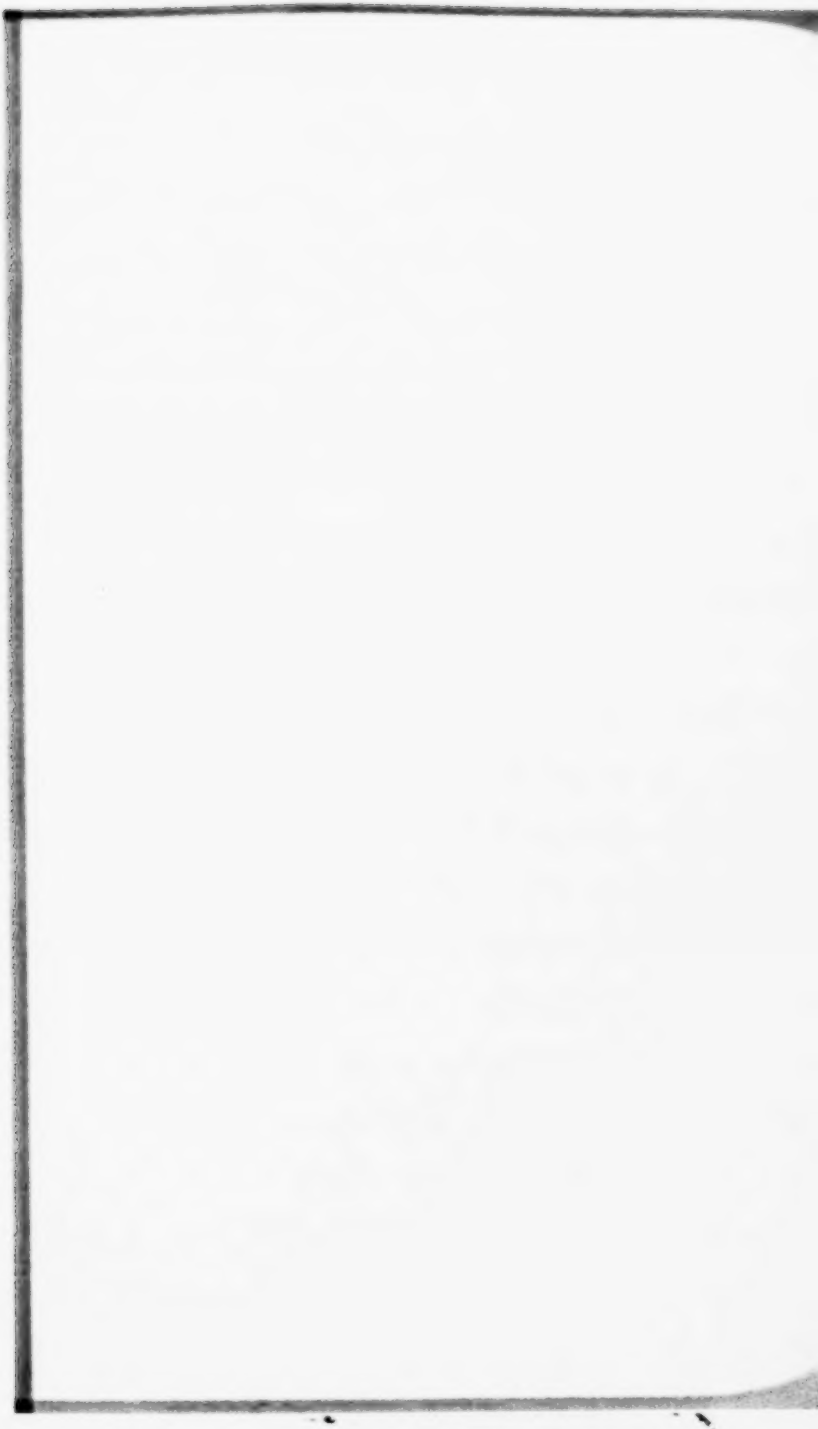
ACCUSATION

STATE OF FLORIDA)
: ss
COUNTY OF DUVAL)

Before me, the undersigned, an officer duly authorized by the laws of the State of Florida to administer oaths, on this 9th day of December, A.D. 1971, personally appeared Dr. Robert M. Denton, Assistant Secretary-Treasurer and Executive Director of the Florida State Board of Dentistry, who having been first duly sworn, deposes and says:

1. That Dr. John F. Cooper, a resident of Florida, is a licensed dentist to practice dentistry under the laws of the State of Florida, Chapter 466 of the Florida Statutes, license issued August 8, 1952, bearing no. 1514, renewed October 1, 1971, bearing certificate number 2711, and was at the time of the acts described below, engaged in the practice of dentistry in Greater Miami, Dade County, Florida.

2. That Dr. John F. Cooper was at the



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time of the acts described below occupying and practicing dentistry in his dental offices at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, and his professional address listed with the Board office is 5801 East Bird Road, Miami, Dade County, Florida.

3. That the said Dr. John F. Cooper has violated the provisions of Chapter 466 of the Florida Statutes as follows:

(a) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, on or about for a period from May of 1969 to May of 1971, did have as his employee one Dina Leopardi, and due to the inability of the said Dr. John F. Cooper to manage his personal and business affairs, it was necessary for the said Dina Leopardi to take charge of his entire finances for his said dental offices and to open bank

accounts for the said Dr. John F. Cooper's dental practice in her name, to wit: Dina Leopardi, and for her to take the cash receipts home every day to prevent the said Dr. John F. Cooper from spending said money and not being able to properly cover checks drawn on old checking accounts that had been closed and otherwise that the said Dr. John F. Cooper would write and cash "bad checks" and otherwise was unable to properly perform the necessary and proper business functions of his office due primarily to his habitual and excessive use of intoxicants and/or drugs, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (3) (a) (d) (n) Florida Statutes, but not limited thereto.

(b) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, on or about for a period from May of 1969 to May of 1971, did use drugs and pills

all day long in his dental offices such as Tuinals, Seconals and Dexedrine. That the said Dr. John F. Cooper did write prescriptions in the names of people not his patients or for whom he was performing no dental services and would have said prescriptions filled for his private use and would consume the said drugs. The said Dr. John F. Cooper used the name, among others (see charges below), Dina Leopardi, and did on the following dates issue and use prescriptions for the following drugs, using the name Dina Leopardi, when the said Dr. John F. Cooper knew that he was not writing the prescriptions for Dina Leopardi and that in fact he consumed the drugs himself:

4/22/70	Ananase, No. 12, 100 mg.
5/21/70	Dexamyl, No. 10, 10 mg.
6/30/70	Empirin #3, No. 10
11/11/70	Dexamyl, No. 5, 5 mg.

said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (c) (d) (n), Florida Statutes, but not limited thereto.

(c) That the said Dr. John F.

Cooper, at his dental offices located at 2506 Pnce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, on or about for a period from May of 1969 to May of 1971, did drink intoxicating beverages at his said offices all most (sic) every day and that from December of 1970 and from February through April of 1971 did habitually use intoxicants and drugs to the extent that he could not perform any dental services and that he did cancel out his dental schedule two or three days a week during said period of time in a row and did regularly cancel out his dental schedule at least every other day during said period because of said condition, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (c) (d) (n), Florida Statutes, but not limited thereto.

(d) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade

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County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, during a period from May of 1969 to May of 1971 and particularly during the early part of 1971 to and through April of 1971, did live at his said offices and that he did use intoxicants and/or drugs to the extent that he would become intoxicated or in a stupor and that his office personnel, to-wit: Dina Leopardi and/or Linda Vega and/or his cleaning woman or patients would find him in a "completely passed out condition, and being without his normal faculties, and that the floor and/or bed where he would be lying would be in a very unsanitary and filthy condition because of food, urine and other human waste products being in and about said office", said acts being in violation of Florida Statutes Chapter 466 and in particular Section 466.24 (1), (3) (a) (c) (d) (1) (n), Florida Statutes, but not limited thereto.

(3) That the said Dr. John F. Cooper, at his dental offices located at 2506

Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, during the period from May of 1969 to May of 1971, did become intoxicated on alcohol or drugs to the extent that he would either go into a stupor and talk incoherently to his patients seated in his dental chair and would exhibit his intoxicated condition to his said patients while performing dental services, including anesthetizing them. At said times, Dr. John F. Cooper would shake so badly that he could hardly talk, or in the alternative, he would talk incessantly. All of said acts being done in his office while his office personnel was present and/or patients, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (c) (d) (n), Florida Statutes, but not limited thereto.

(f) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County,

Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, did use on prescriptions the name of Lois Vaughn to obtain narcotics and drugs during 1970 and the first three months of 1971, including Tuinal and Dexedrine, and in particular, did on January 23, 1971, prepare and sign a prescription in the name of Mrs. Lois Vaughn for Tuinal and did have said prescription filled for his private use and did use said drug, well knowing that the said drug was to be used by him for his use and not for the said Lois Vaughn, and further that the said Lois Vaughn was not a patient of the said Dr. Cooper, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (c) (d) (n), Florida Statutes, but not limited thereto.

(g) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, was an alcoholic during 1970

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and in 1971, and that he, because of the habitual use of intoxicants and/or drugs could not function or work in his dental offices during said period of time, and that he further would habitually frequent bars, fight and be forcefully ejected or "thrown out of bars" in and about the area which he lived and worked, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (n), Florida Statutes, but not limited thereto.

(h) That the said Dr. John F. Cooper at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, did prescribe and issue prescriptions for a drug or narcotic call (sic) Librium to the said Lois Vaughn when the said Lois Vaughn was not a dental patient of the said Dr. John F. Cooper and said drug could not be properly dispensed by the said Dr. John F. Cooper to the said Lois Vaughn for her use or for the use of the said Dr.

John F. Cooper, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (c) (d) (n), Florida Statutes, but not limited thereto.

(i) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, did use the name Patrick Robinson to obtain narcotics and drugs for himself during 1970 and the first two months of 1971, including Seconal and Tuinal, and did prepare and sign prescriptions in the name of the said Patrick Robinson and did have said prescriptions filled for his private use and did use said drugs well knowing that the said drugs were to be used by him for his use and not the said Patrick Robinson, and further that the said Patrick Robinson was not a patient of the said Dr. John F. Cooper. Said dates and drugs are as follows:

3/17/70 Seconal 12/21/70 Tuinal

4/1/70	Seconal	1/2/71	Tuinal
4/25/70	Seconal	1/8/71	Tuinal
6/9/70	Seconal	1/16/71	Tuinal
7/6/70	Tuinal	1/23/71	Tuinal
10/23/70	Tuinal	1/23/71	Doridan
11/11/70	Tuinal	1/27/71	Ananase
11/21/70	Tuinal	2/8/71	Tuinal
12/4/70	Tuinal	2/22/71	Tuinal
12/15/70	Tuinal		

said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (c) (d) (n), Florida Statutes, but not limited thereto.

(j) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, did prepare and sign and give to one Art McKeehan on or about May 31, 1971, a prescription for a narcotic, to-wit: Ananose, when in fact the said Art McKeehan was not a patient of the said Dr. John F. Cooper, and the said Dr. John F. Cooper did further prepare, sign and give to one Mrs. Ann McKeehan prescriptions for narcotics, when in fact the said Mrs. Ann McKeehan was not a patient of the said Dr. John F. Cooper, said dates

and drugs are as follows:

8/22/70	Dexamyl	11/13/70	Dexamyl
10/27/70	Dexamyl	1/20/71	Tuinal

said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (3) (a) (c) (d) (n), Florida Statutes, but not limited thereto.

(k) The said Dr. John F. Cooper, while engaged in the practice of dentistry in the State of Florida, was arrested for "disorderly person by intoxication", by the Coral Gables City Police Department on the following dates:

August 22, 1963	September 23, 1970
August 26, 1963	November 20, 1970
February 13, 1965	December 12, 1970
February 1, 1970	February 28, 1971

and had further been arrested by the City of Miami Police Department on May 5, 1963 for "Aggravated Assault (on complaint)", and further for "public drunkeness" on the following dates:

April 30, 1965	January 19, 1966
July 19, 1965	September 22, 1967
October 13, 1965	October 10, 1967
January 13, 1966	

and due to driving while intoxicated had lost his

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drivers license, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (n), Florida Statutes, but not limited thereto.

4. The above described acts, all of which violate Chapter 466 of the Florida Statutes, are in violation of Section 466.24 (1), (3) (a) (c) (d) (1) (n), of the Florida Statutes, but not limited thereto.

Robert M. Denton, D. D. S.

ROBERT M. DENTON, D.D.S.
Executive Director and Assistant
Secretary-Treasurer of the Florida
State Board of Dentistry

STATE OF FLORIDA)
: ss
COUNTY OF DUVAL)

Personally appeared before me Robert M. Denton, D.D.S., Executive Director and Assistant Secretary-treasurer of the Florida State Board of Dentistry, who being first duly sworn, says that the allegations set forth in the within

Accusation are based upon facts and information supplied to the Florida State Board of Dentistry and said facts, if true, would constitute the offense therein charged and a violation of Chapter 466, Florida Statutes.

Robert M. Denton, D.D.S.

ROBERT M. DENTON, D.D.S.
Executive Director and Assistant
Secretary-Treasurer of the Florida
State Board of Dentistry.

Sworn to and subscribed before
me this 9th day of December, 1971.

Phyllis J. Frank

Notary Public, State of Florida
My commission expires:
Notary Public State of Florida at Large
My commission expires Dec. 22, 1973
Bonded thru Fred W. Diestelhorst